



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2021-0134; FRL-8760-02-R9]

Air Plan Approval; Arizona; Pinal County Air Quality Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the Pinal County Air Quality Control District (PCAQCD) portion of the Arizona State Implementation Plan (SIP). These revisions concern the District's negative declarations for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS or "standards") in the portion of the Phoenix-Mesa ozone nonattainment area under the jurisdiction of the PCAQCD and two volatile organic compound (VOC) rules covering gasoline dispensing and surface coating operations. We are approving local rules that regulate these emission sources under the Clean Air Act (CAA or the Act). This approval stops all sanction and federal implementation plan clocks started by our August 9, 2019 partial and limited disapproval actions.¹

DATES: This rule is effective [Insert date 30 days after date of publication in the *Federal Register*].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2021-0134. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR**

¹ 84 FR 39196 (August 9, 2019).

FURTHER INFORMATION CONTACT section for additional availability information. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Nicole Law, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947-4126 or by email at Law.Nicole@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. Proposed Action

On March 5, 2021², the EPA proposed to approve negative declarations for the 2008 8-hour ozone NAAQS in the portion of the Phoenix-Mesa ozone nonattainment area under the jurisdiction of the PCAQCD and the following two PCAQCD rules: Chapter 5, Article 13, Surface Coating Operations, and Chapter 5, Article 20, Storage and Loading of Gasoline at Gasoline Dispensing Facilities. The following table lists the documents that were submitted by the Arizona Department of Environmental Quality (AQED) for incorporation into the Arizona SIP; these documents were the subject of our March 5, 2021 proposed rulemaking action and submitted in response to our August 9, 2019 partial and limited disapproval actions.³

Local Agency	Rule Title	Amended	Submitted
PCAQCD	Reasonably Available Control Technology (RACT) Analysis, Negative Declaration and Rules Adoption – Appendix B:	8/5/2020	8/20/2020

² 86 FR 12889.

³ 84 FR 39196 (August 9, 2019).

Local Agency	Rule Title	Amended	Submitted
	Additional Negative Declarations		
PCAQCD	Chapter 5, Article 13 Surface Coating Operations 5-13-100, “General” 5-13-200, “Definitions” 5-13-300, “Standards” 5-13-400, “Administrative Requirements” 5-13-500, “Monitoring and Records”	8/5/2020	8/20/2020
PCAQCD	Chapter 5, Article 20 Storage and Loading of Gasoline at Gasoline Dispensing Facilities 5-20-100 “General” 5-20-200 “Definitions” 5-20-300 “Standards” 5-20-400 “Administrative Requirements” 5-20-500 “Monitoring and Records”	8/5/2020	8/20/2020

We proposed to approve the negative declarations and two rules because we determined that they comply with the relevant CAA requirements. Our proposed action contains more information on the negative declarations and rules as well as on our evaluation.

II. Public Comments and EPA Responses

The EPA’s proposed action provided a 30-day public comment period. During this period, we received no comments.

III. EPA Action

No comments were submitted. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving these negative declarations and rules into the Arizona SIP.

The August 5, 2020 versions of Chapter 5, Article 13 and Chapter 5, Article 20 will replace the previously approved version of these rules in the SIP. This approval stops all sanction and federal implementation plan clocks started by our August 9, 2019 partial and limited disapproval

actions on the PCAQCD RACT SIP.⁴

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the PCAQCD rules described in the amendments to 40 CFR part 52 set forth below. Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.⁵ The EPA has made, and will continue to make, these documents available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

⁴ 84 FR 39196 (August 9, 2019).

⁵ 62 FR 27968 (May 22, 1997).

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule

may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the ***Federal Register***. A major rule cannot take effect until 60 days after it is published in the ***Federal Register***. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the *Federal Register*]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 26, 2021.

Deborah Jordan,
Acting Regional Administrator,
Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for Part 52 continues to read as follows:

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Subpart D – Arizona

2. In § 52.120, in paragraph (c), amend Table 9, under “Chapter 5. Stationary Source Performance Standards” by revising the entries for “5-13-100”, “5-13-200”, “5-13-300”, “5-13-400”, “5-13-500”, “5-20-100”, “5-20-200”, “5-20-300”, “5-20-400” and “5-20-500”.

The revisions read as follows:

§52.120 Identification of plan.

(c)***

Table 9—EPA-Approved Pinal County Air Pollution Control Regulations

County citation	Title/subject	State effective date	EPA approval date	Additional explanation

Chapter 5. Stationary Source Performance Standards				
5-13-100	Surface Coating Operations – General	August 5, 2020	[INSERT DATE OF PUBLICATION], [INSERT <i>Federal Register</i> CITATION]	The August 5, 2020 version of section 5-13-100 replaces the November 30, 2016 version that had been approved on August 9, 2019 (84 FR 39196). The RACT rule for Surface Coating Operations consists of Pinal County Air Quality Control District sections 5-13-100, 5-13-200, 5-13-300, 5-13-400, and 5-13-500.
5-13-200	Definitions	August 5, 2020	[INSERT DATE OF PUBLICATION], [INSERT	The August 5, 2020 version of section 5-13-200 replaces the November 30, 2016 version that had been approved on August 9,

			<i>Federal Register</i> CITATION]	2019 (84 FR 39196). The RACT rule for Surface Coating Operations consists of Pinal County Air Quality Control District sections 5-13-100, 5-13-200, 5-13-300, 5-13-400, and 5-13-500.
5-13-300	Standards	August 5, 2020	[INSERT DATE OF PUBLICATION], [INSERT <i>Federal Register</i> CITATION]	The August 5, 2020 version of section 5-13-300 replaces the November 30, 2016 version that had been approved on August 9, 2019 (84 FR 39196). The RACT rule for Surface Coating Operations consists of Pinal County Air Quality Control District sections 5-13-100, 5-13-200, 5-13-300, 5-13-400, and 5-13-500. Section 5-13-390 is not part of the SIP.
5-13-400	Administrative Requirements	August 5, 2020	[INSERT DATE OF PUBLICATION], [INSERT <i>Federal Register</i> CITATION]	The August 5, 2020 version of section 5-13-400 replaces the November 30, 2016 version that had been approved on August 9, 2019 (84 FR 39196). The RACT rule for Surface Coating Operations consists of Pinal County Air Quality Control District sections 5-13-100, 5-13-200, 5-13-300, 5-13-400, and 5-13-500.
5-13-500	Monitoring and Records	August 5, 2020	[INSERT DATE OF PUBLICATION], [INSERT <i>Federal Register</i> CITATION]	The August 5, 2020 version of section 5-13-500 replaces the November 30, 2016 version that had been approved on August 9, 2019 (84 FR 39196). The RACT rule for Surface Coating Operations consists of Pinal County Air Quality Control District sections 5-13-100, 5-13-200, 5-13-300, 5-13-400, and 5-13-500.
*	*	*	*	***
5-20-100	Storage and Loading of Gasoline at Gasoline Dispensing Facilities - General	August 5, 2020	[INSERT DATE OF PUBLICATION], [INSERT <i>Federal Register</i> CITATION]	The August 5, 2020 version of section 5-20-100 replaces the November 30, 2016 version that had been approved on August 9, 2019 (84 FR 39196). The RACT rule for Storage and Loading of Gasoline at Gasoline Dispensing Facilities consists of Pinal County

				Air Quality Control District sections 5-20-100, 5-20-200, 5-20-300, 5-20-400, and 5-20-500.
5-20-200	Definitions	August 5, 2020	[INSERT DATE OF PUBLICATION], [INSERT <i>Federal Register</i> CITATION]	The August 5, 2020 version of section 5-20-200 replaces the November 30, 2016 version that had been approved on August 9, 2019 (84 FR 39196). The RACT rule for Storage and Loading of Gasoline at Gasoline Dispensing Facilities consists of Pinal County Air Quality Control District sections 5-20-100, 5-20-200, 5-20-300, 5-20-400, and 5-20-500.
5-20-300	Standards	August 5, 2020	[INSERT DATE OF PUBLICATION], [INSERT <i>Federal Register</i> CITATION]	The August 5, 2020 version of section 5-20-300 replaces the November 30, 2016 version that had been approved on August 9, 2019 (84 FR 39196). The RACT rule for Storage and Loading of Gasoline at Gasoline Dispensing Facilities consists of Pinal County Air Quality Control District sections 5-20-100, 5-20-200, 5-20-300, 5-20-400, and 5-20-500.
5-20-400	Administrative Requirements	August 5, 2020	[INSERT DATE OF PUBLICATION], [INSERT <i>Federal Register</i> CITATION]	The August 5, 2020 version of section 5-20-400 replaces the November 30, 2016 version that had been approved on August 9, 2019 (84 FR 39196). The RACT rule for Storage and Loading of Gasoline at Gasoline Dispensing Facilities consists of Pinal County Air Quality Control District sections 5-20-100, 5-20-200, 5-20-300, 5-20-400, and 5-20-500.
5-20-500	Monitoring and Records	August 5, 2020	[INSERT DATE OF PUBLICATION], [INSERT <i>Federal Register</i> CITATION]	The August 5, 2020 version of section 5-20-500 replaces the November 30, 2016 version that had been approved on August 9, 2019 (84 FR 39196). The RACT rule for Storage and Loading of Gasoline at Gasoline Dispensing Facilities consists of Pinal County Air Quality Control District sections 5-20-100, 5-20-200, 5-20-300, 5-20-400, and 5-20-500.
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3. Section 52.122 is amended by adding paragraph (a)(2)(ii) to read as follows:

§52.122 Negative declarations.

(a)***

(2) ***

(ii) The following negative declarations for the 2008 ozone NAAQS were adopted on August 5, 2020 and submitted on August 20, 2020.

EPA document No.	Title
EPA-450/2-77-037	Cutback Asphalt
EPA 453/R-08-003	Miscellaneous Metal Parts Coatings Tables 3-6 Plastic Parts and Products; Automotive/Transportation and Business Machine Plastic Parts; Pleasure Craft Surface Coatings; Motor Vehicle Materials
EPA 453/B-16-001	Control Techniques Guidelines for the Oil and Natural Gas Industry
N/A	Major non CTG VOC sources
N/A	Major NOx sources

§52.124 [Amended]

4. Section 52.124 is amended by removing and reserving paragraph (b).

[FR Doc. 2021-16862 Filed: 8/20/2021 8:45 am; Publication Date: 8/23/2021]